IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 23287 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE K.M.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SAMIRBHAI SALIMBHAI VHORA - Petitioner(s)

Versus

STATE OF GUAJRAT THR' DY.SECRETARY & 3 - Respondent(s)

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Appearance :

MR HR PRAJAPATI for Petitioner(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1 - 2.
GOVERNMENT PLEADER for Respondent(s) : 3,
RULE NOT RECD BACK for Respondent(s) : 4,
M IA SHAIKH for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE K.M.MEHTA

Date : 27/01/2006

ORAL JUDGMENT

1. The petitioner has filed this habeas corpus petition under Article 226 of the Constitution of India for challenging the order of detention dated

18.11.05 passed by District Magistrate respondent No.2 under the provisions of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (hereinafter referred to as the Act) being illegal, invalid, arbitrary, void ab initio, violative under Article 14, 21, 22 of the Constitution of India.

2. The petition was filed on 1.12.05 and on 2.12.05 the Court has issued Rule and the same was made returnable on 22.12.05.

3. On behalf of the respondent Mr. Pujari learned AGP appears for respondent No. 1 to 3 and for No. 4 Mr. Shaikh Central Government counsel appears for Union of India. With the consent of the parties the matter is taken up for final hearing.

4. Mr. H.R Prajapati learned counsel for the petitioner stated that in the aforesaid matter certain documents particularly page 31, 33, 35 which have been furnished to the petitioner along with the grounds are partly illegible. The said documents was also shown to him to learned AGP Mr. Pujari and he

has also admitted that these documents are illegible. The learned counsel for the petitioner submitted that there are several grounds for challenging the petition but is confined to the argument only on the ground that the petition is required to be allowed that the authority has supplied illegible documents in this behalf in support of the same learned counsel for the petitioner has relied upon the judgement of this Court in the case Kantilal Mathudas Dave Vs. State of Gujarat in Special Civil Application No. 24429/03 decided on 27.1.06 (coram : K.M.MEHTA, J) in the said case after relying upon several judgement of the Supreme Court. This Court has held that if the authority has supplied illegible documents then on the same ground the petition is required to be allowed and the order of detention is set aside and therefore for the reasoning and conclusion arrived at the same this petition requires to be allowed. The order of detention dated 18.11.05 passed by the authority in this behalf is quashed and set aside. Rule is made absolute. Petition is allowed.

5. I have gone through the said judgements and orders and I am of the view that petition is

required to be allowed. The order of detention dated 18.11.05 is quashed and set aside. The detenu, Samirbhai Salimbhai Vhora is ordered to be set at liberty forthwith if he is not required in connection with any other case. Rule is made absolute accordingly with no order as to cost.

6. Direct service permitted.

(K.M.MEHTA, J)

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